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UBER TECHNOLOGIES, INC.,

RASIER, LLC, and RASIER-CA, LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SAN FRANCISCO DIVISION

IN RE: UBER
TECHNOLOGIES, INC.,
PASSENGER SEXUAL
ASSAULT LITIGATION

Case No. 3:23-md-03084-CRB

This Document Relates to:

ALL ACTIONS

**DECLARATION OF DANIEL
CUMMINGS IN SUPPORT OF
DEFENDANTS' AMENDED
STATEMENT IN SUPPORT OF
PLAINTIFFS' ADMINISTRATION
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE FILED UNDER SEAL [ECF
NO. 1651] AND RESPONSE TO ORDER
TO SHOW CAUSE [ECF NO. 1818]**

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

**DECLARATION OF DANIEL CUMMINGS IN SUPPORT OF DEFENDANTS' AMENDED STATEMENT IN
SUPPORT OF PLAINTIFFS' ADMINISTRATION MOTION TO CONSIDER WHETHER ANOTHER
PARTY'S MATERIAL SHOULD BE FILED UNDER SEAL [ECF NO. 1651] AND RESPONSE TO ORDER TO
SHOW CAUSE [ECF NO. 1818]**

Case No. 3:23-MD-3084-CRB

DECLARATION OF DANIEL CUMMINGS

I, Daniel Cummings, having personal knowledge of the following state:

1. I am an attorney at the law firm of Shook, Hardy & Bacon LLP, attorneys of record for Defendants Uber Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC, (collectively, “Uber”). I am a member in good standing of the Bars of the States of Missouri, Kansas, and Nebraska. I know the following facts to be true of my own knowledge, except those matters stated to be based on information and belief, and if called to testify, I could competently do so. I respectfully submit this declaration in support of Uber’s Amended Statement in Support of Plaintiffs’ Administrative Motion to Consider Whether Another Party’s Material Should Be Filed Under Seal, ECF No. 1811 and Response to Order to Show Cause, ECF No. 1818.

2. I have reviewed the unredacted joint letter brief on privilege disputes. The amended redactions submitted in this filing contain email addresses for two third parties, and one email subject line with descriptions of the specific matters on which Uber was engaged in confidential communications with a regulator and on which it sought and received legal advice. *See Jones*, 2023 WL 7434197, at *2 (“Courts in this circuit routinely seal email addresses and other personal identifying information under the compelling reasons standard due to the potential privacy harm to the individual whose contact information may be exposed.”); *In re Pac. Fertility Ctr. Litig.*, 2021 WL 1082843, at *2 (noting that “there are compelling reasons to seal customer names, ... as well as employee email addresses”); *Fernandez v. CoreLogic Credco, LLC*, No. 20-CV-1262-JM-AGS, 2023 WL 11445613, at *1 (S.D. Cal. Mar. 8, 2023) (finding good cause to seal privilege logs that “reflect[ed] the identity of documents and communications withheld ... from production on privilege grounds”). Disclosure of this document could harm Uber by revealing the matters on which it engaged in confidential communications with regulators and sought legal advice about the same.

3. I have reviewed Exhibit A to the declaration of Tiffany Ellis in support of

1 the joint letter brief on privilege disputes. It is a confidential, non-public, internal Uber
 2 email produced in discovery. The email discusses a confidential business proposal and
 3 detailed strategies, work streams, and business considerations regarding the same. *See*
 4 *Jam Cellars*, 2020 WL 5576346, at *1 (“Courts have found that ‘confidential business
 5 information’ in the form of ‘... business strategies’ satisfies the ‘compelling reasons’
 6 standard.”); *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d at 1097. Disclosure
 7 of this document could harm Uber competitively by revealing its internal business
 8 strategies, plans, and processes.

9 4. I have reviewed Exhibit B to the declaration of Tiffany Ellis in support of
 10 the joint letter brief on privilege disputes. This is a chart created from confidential
 11 privilege log(s) provided by Uber. The amended redactions in this chart contain
 12 employee and third party email addresses one email subject line with descriptions of
 13 the specific matters on which Uber was engaged in confidential communications with
 14 a regulator and on which it sought and received legal advice. *See Fernandez v.*
 15 *CoreLogic Credco, LLC*, No. 20-CV-1262-JM-AGS, 2023 WL 11445613, at *1 (S.D.
 16 Cal. Mar. 8, 2023) (finding good cause to seal privilege logs that “reflect[ed] the identity
 17 of documents and communications withheld ... from production on privilege grounds”);
 18 *Jones*, 2023 WL 7434197, at *2 (“Courts in this circuit routinely seal email addresses
 19 and other personal identifying information under the compelling reasons standard due
 20 to the potential privacy harm to the individual whose contact information may be
 21 exposed.”); *In re Pac. Fertility Ctr. Litig.*, 2021 WL 1082843, at *2 (noting that “there
 22 are compelling reasons to seal customer names, ... as well as employee email
 23 addresses”).

24 5. I have reviewed the declaration of Scott Binnings. This declaration
 25 contains descriptions of confidential and privileged documents and the business
 26 practices, plans, or communications described therein, names of Uber employees and
 27 attorneys, and descriptions of the matters on which Uber sought and received legal

1 advice. The declaration also contains descriptions of the manner in which Uber
2 structures its teams and operations to seek legal advice from its in-house attorneys, as
3 well as Uber's practices and procedures through which it seeks and receives legal
4 advice. It also describes which particular individuals and attorneys had involvement in
5 various projects and initiatives. Disclosure of this confidential internal information may
6 cause Uber competitive harm and also risks chilling Uber's ability to seek and obtain
7 legal advice if the subjects, context, and manner of seeking and receiving legal advice
8 is publicly disclosed.

9 6. I have reviewed the declaration of Daniel Kolta. This declaration contains
10 descriptions of confidential and privileged documents and the business practices, plans,
11 or communications described therein, and descriptions of the matters on which Uber
12 sought and received legal advice. The declaration also contains descriptions of the
13 manner in which Uber structures its teams and operations to seek legal advice from its
14 in-house attorneys, as well as Uber's practices and procedures through which it seeks
15 and receives legal advice. Disclosure of this confidential internal information may cause
16 Uber competitive harm and also risks chilling Uber's ability to seek and obtain legal
17 advice if the subjects, context, and manner of seeking and receiving legal advice is
18 publicly disclosed.

19 7. I have reviewed the declaration of Maureen Frangopoulos. This
20 declaration contains descriptions of confidential and privileged documents and the
21 business practices, plans, or communications described therein, the name and role of
22 another Uber attorney and her involvement with a privileged document, and
23 descriptions of the matters on which Uber sought and received legal advice. It describes
24 the relationship of Uber's legal department with a third party. The declaration also
25 contains descriptions of the manner in which Uber structures its teams and operations
26 to seek legal advice from its in-house attorneys, as well as Uber's practices and
27 procedures through which it seeks and receives legal advice. Disclosure of this
28

1 confidential internal information may cause Uber competitive harm and also risks
2 chilling Uber's ability to seek and obtain legal advice if the subjects, context, and
3 manner of seeking and receiving legal advice is publicly disclosed.

4 8. The disclosure of the above-described documents could harm Uber's
5 marketplace standing and the privacy interests of its employees and third parties, and
6 cause undue harm if publicly disseminated.

7 9. Uber has substantially revised the scope of its request to seal, substantially
8 narrowing the scope of redactions and withdrawing its request to seal several
9 documents. In light of this substantial narrow tailoring, no less restrictive alternative to
10 sealing is sufficient. Actions short of sealing the documents would not protect the
11 legitimate interests of Uber, its employees, or third parties.

12
13 I declare under penalty of perjury that the foregoing is true and correct.

14 Executed on November 8, 2024.

By: /s/ Daniel Cummings
Daniel Cummings